IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 27 of 1986

HONOURABLE MR.JUSTICE KS JHAVERI

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NARAYANDAS MULCHANDBHAI MAKHI & 1 - Appellant(s)
Versus
NAMDEV MANPUR PATIL & 6 - Defendant(s)

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Appearance :
MR SB VAKIL for Appellant(s) : 1,MR SUNIL B PARIKH for Appellant(s) : 2,
NOTICE SERVED for Defendant(s) : 1 - 3,5 - 6.
DELETED for Defendant(s) : 4,
UNSERVED-EXPIRED (N) for Defendant(s) : 7,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 27/07/2006

ORAL JUDGMENT

1. This appeal is directed against the judgement and award dated 30th September 1985 passed by the M.A.C. Tribunal (Main), Bhavnagar in MAC Petition No.147 of 1980 whereby the Tribunal has awarded a sum of Rs.60000/-.

2. The case of the claimants who are parents, brothers and sisters of Eknath was that said Eknath died in an accident which occurred on 14.6.79 on Bhavnagar-Ahmedabad road near Vallabhipur when a motor truck fell into river-bed. The claimants have therefore filed the aforesaid claim petition claiming Rs.80000/- which was partly allowed.

3. Learned Advocate for the appellant submitted that Tribunal ought to have deducted two-third income of the deceased and should have calculated the dependency benefits accordingly.

4. In the case of Ranchhodbhai Somabhai V. Babubhai Bhailalbhai, reported in 1982 GLH page 28 it has been held that two third of the datum figure would be diverted by the deceased for the maintenance of his own family and one third for the maintenance of his parents. Similar principle has been laid down in a subsequent decision of this Court in the case of Smt. Rafia Sultan, Widow of Mirsa Sultan Alil V. Oil and Natural Gas Commission, reported in 1985(2) GLR page 1315.

4. In the present case the compensation awarded by the t ribunal is Rs.60000/-. In view of the aforesaid decision, deducting 2/3rd the figure would come to Rs.20000/-.

5. No other contentions are raised.

6. In the premises aforesaid, it is held that the parents of the deceased will be entitled to get Rs.20000/- by way of compensation. It is further held that the brothers and sisters of the deceased will not be entitled to any compensation. The said amount shall carry interest and costs as awarded by the Tribunal. The amount of Rs.40000/- will be refunded

to the Insurance Company. However, if the claimants have already withdrawn the same it shall not be recovered. The award of the Tribunal is modified accordingly. Appeal is partly allowed. No order as to costs.

[K.S. JHAVERI, J.]

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